UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,005	08/17/2001	Robert W. Scheifler	6502.0113-01	2982

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EXAMINER
LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
2161	

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *07 February 2006*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *28-89* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *28-89* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *17 August 2001* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *2/2006*.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

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Claims 28-88 are pending. Claims 1-27 have been cancelled. Claims 28-88 are rejected as

detailed below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new
> and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 28, 29, 31, 32, 34, 35, 37, 38, 40, 42, 44-47, 49, 50, 52, 53, 55, 56, 58, 60, 62, 64-71, 73-

81, 83-86, 87 and 88 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-

statutory subject matter. Claim 28 recites "data for dynamically loading executable code to facilitate

access of the one network service.

The claimed invention lacks practical application because applicant merely claims facilitating

access.[1] Facilitating access is not concrete, tangible or useful. Facilitating or promoting or making easy

is open to interpretation by means of human mental processes and therefore, is not concrete or useful.

At best, "facilitating access" is the manipulation of abstract ideas and thus the claimed invention is non-

statutory because a concrete, tangible and useful practical application such as accessing data is not

claimed.

Furthermore, "data for dynamically loading executable code" lacks a concrete, tangible and

useful result because no positive step related to a real world application is claimed.

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[1] facilitate is defined as promote, aid, make easy, expedite, Webster's New World Dictionary.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 28-76 and 78-89 are rejected under 35 U.S.C. 102(e) as being anticipated by Pub No US

2001/0003825 issued to Schnier.

Claims 28, 37, 44, 45, 46, 49, 55, 62 and 63 and 71 and 75:

Schnier discloses:

receiving a request from a client [Fig 4, web browser 224, applet data file downloaded to

browser when requested, paragraph 78]

by the lookup service [Fig 4, 100 – web server application 182, paragraph 78] **for access to one**

of the network services [applet facilitates access to objects residing on the server system, paragraph 79,

applet calls methods on proxy objects]

returning a resource locator [web page is downloaded by a browser, paragraph 21, inherent in

the web page is a URL] **to the client from the lookup service so that the client may dynamically load**

executable code [applet downloaded to the web browser 224 when requested, paragraph 78]

Claims 29, 38, 47 and 56 and 72:

Schnier discloses using the returned resource locator to dynamically load executable code to

facilitate access of the one network service [paragraph 51]

Claims 30, 39, 41, 43, 48, 51, 54, 57, 59:

Schnier discloses accessing the network service by the client using the dynamically loaded

executable code [paragraph 51]

Claims 31 and 64 and 73 and 76:

Schnier discloses wherein the step of returning a resource locator includes the step of returning

the stub information to the client [paragraphs 51, 79 and 90]

Claims 32, 50 and 58:

Schnier discloses using the resource locator in the client to dynamically load executable code for

the stub [paragraphs 51, 79 and 90]

Claims 33, 40 and 61:

Schnier discloses accessing the network service by the client using the dynamically loaded

executable code [paragraphs 51, 79 and 90]

Claims 34 and 52 and 74:

Schnier discloses returning smart proxy information to the client [paragraphs 51, 79 and 90]

Claims 35 and 53:

Schnier discloses using the resource locator in the client to dynamically load executable code for

the smart proxy [paragraphs 51, 79 and 90]

Claim 36 and 65:

Schnier discloses accessing the network service by the client using the dynamically loaded

executable code [paragraphs 51, 79 and 90]

Claims 42 and 60 and 69 and 70:

Schnier discloses receiving smart proxy information and using the resource locator to

dynamically load executable code for a smart proxy [paragraphs 51, 79 and 90]

Claims 66:

Schnier discloses receiving the request to access the one network service such that the one

network service is identified by a type of service [interactivity, paragraph 23]

Claims 67 and 68:

Schnier discloses receiving the request to access the one network service such that the one

network service is identified by a service identification number [web page, paragraph 21]

Claims 78-89

Examiner maintains that Schnier discloses the elements of claims 78-89 based on supra rejection

of the claim elements.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102
> of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art
> to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schnier in view of US

Pat No 5,966,435 issued to Pino (hereafter Pino).

Claim 77:

Schnier discloses the elements of claim 75 as noted above but does not disclose returning a null

value if no service is found. Pino discloses providing a null value if no service is found from any

provider [col 8, lines 1-5]. It would have been obvious to one of ordinary skill in the art at the time the

invention was to modify Schnier to include returning a null value if no service is found based on the

teaching of Pino for the purpose of indicating that a device has been removed from service [col 8, lines

1-5].

Response to Arguments

Applicant's arguments filed February 7, 2006 have been fully considered but are not persuasive

for the reasons given below.

Applicant Argues:

Applicant in the fourth paragraph on page 23:

After receiving the CORBA environment information, the system allows the client to request

an object reference from the Web server. The processes described by Schnier are different from

receiving a resource locator including a reference to a requested service and data for dynamically

loading executable code facilitate access of the requested service. Indeed, Schnier requires the client to

use a downloaded applet to further download CORBA environment information before the client can

even request an object reference from the Web server.

Examiner Responds:

Examiner is not persuaded. The mapping of the claim 28 limitations to the disclosure of Schnier

is included in supra Office Action and duplicated below for easy reference:

Schnier discloses:

receiving a request from a client [Fig 4, web browser 224, applet data file downloaded to

browser when requested, paragraph 78]

by the lookup service [Fig 4, 100 – web server application 182, paragraph 78] **for access to one**

of the network services [applet facilitates access to objects residing on the server system, paragraph 79,

applet calls methods on proxy objects]

returning a resource locator [web page is downloaded by a browser, paragraph 21, inherent in

the web page is a URL] **to the client from the lookup service so that the client may dynamically load**

executable code [applet downloaded to the web browser 224 when requested, paragraph 78]

Applicant Argues:

Applicant states in the second paragraph of page 24:

Further, the cited art fails to teach or suggest the recitations of claims 29-36. For example, the examiner is misplaced in asserting Schnier teaches a smart proxy. Indeed, the applets disclosed by Schnier do not reflect or operate in any manner as a smart proxy, as disclosed in the context of Applicant's invention.

Examiner Responds:

Examiner is not persuaded. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a smart proxy, as disclosed in the context of Applicant's invention) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached Monday through Friday between 8:00am and 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
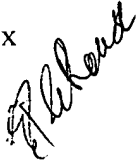
Information regarding the status of an application may be obtained from the Patent Application

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Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Etienne LeRoux

March 7, 2006